

§ 551.12. Notice of Assignment of Administrative Law Judges; Peremptory Challenges.

(a) The name of the administrative law judge assigned to a protest or petition proceeding will be noted on the order of time and place of hearing. An amended order or notice will be issued if a different administrative law judge is subsequently assigned to the proceeding.

(b) ~~In any proceeding other than those relating to applications for temporary relief or interim orders, each party is entitled to only one peremptory challenge of the assigned administrative law judge~~ Each party is entitled to one peremptory challenge of the administrative law judge assigned to preside over the hearing on the merits of a petition as required by Vehicle Code section 3050(c) or the administrative law judge assigned to preside over the hearing on the merits of a protest as required by subdivisions (d) and (e) of Vehicle Code section 3050, based solely upon satisfying all of the following requirements:

(1) ~~The peremptory challenge shall~~ The peremptory challenge must be filed with the board no later than either 20 days from the date of the order of time and place of hearing identifying the merits administrative law judge or 20 days prior to the date scheduled for commencement of the merits hearing, whichever is earlier.

(2) The peremptory challenge may be made by the party, the party's attorney, or authorized representative appearing in ~~any~~ the proceeding, and shall be by written declaration ~~consistent with the requirement of subsection (e), below; and~~ substantially in the following form:

"I am a party to [case name and number] and am exercising my right to a peremptory challenge regarding ALJ [name], pursuant to Section 551.12 and Government Code section 11425.40(d)"; and

(3) The peremptory challenge shall be served on opposing parties.

(c) If a party obtains the removal of the assigned administrative law judge, either by way of peremptory challenge, or for cause under Section 551.1, any other party shall have the right to a peremptory challenge of the subsequently assigned administrative law judge provided that the party complies with subparagraphs (b)(2)-(3), above. This latter peremptory challenge shall be filed with the board no later than either 20 days from the date of the notice or order identifying the subsequent administrative law judge or 10 days prior to the date scheduled for the merits hearing, whichever is earlier.

(d) No peremptory challenge shall be considered or granted if it is not made within the time limits set forth above.

(e) A peremptory challenge of the assigned administrative law judge is not authorized for law and motion hearings, settlement conferences, and rulings on discovery disputes. Any declaration filed pursuant to this regulation shall be in substantially the following form:

~~I, _____ (name) _____, declare: That I am a party (or attorney or authorized representative for a party) in the pending matter. That the administrative law judge assigned to the hearing is prejudiced against the party (or his or her attorney or~~

~~authorized representative of record) or the interest of the party (or his or her attorney or authorized representative) so that the declarant cannot or believes that he or she cannot have a fair and impartial hearing before the administrative law judge.~~

~~I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct:~~

(Date) (Signature)

(f) Unless required for the convenience of the board or good cause is shown, a continuance of the merits hearing shall not be granted by reason of a peremptory challenge. ~~If a continuance is granted, the matter shall be continued to the first convenient day for the board and shall be reassigned or transferred for hearing as promptly as possible.~~ Nothing in this regulation shall affect or limit the provisions of Vehicle Code section 3066(a), 3080(a), or 3085.2(a).

(g) Nothing in this regulation shall affect or limit the provisions of a challenge for cause under Article 1, section 551.1.

Note: Authority cited: Sections 3050(a), 3066, 3080 and 3085.2, Vehicle Code. Reference: Section 3050(a), Vehicle Code; ~~Section 2015.5, Code of Civil Procedure;~~ and Section 11425.40, Government Code.